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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,361	01/09/2002	Kenneth S. Ehrman	58886-00006USPT	6354
6980	7590	02/21/2006	EXAMINER	
TROUTMAN SANDERS LLP 600 PEACHTREE STREET, NE ATLANTA, GA 30308			KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER
			3627	
DATE MAILED: 02/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/043,361

**Applicant(s)**

EHRMAN ET AL.

**Examiner**

James A. Kramer

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/19/05 has been entered.

### *Status of the Claims*

Claims 1-20 are cancelled

Claims 21-37 are pending

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-23, 28-30 ?????? rejected under 35 U.S.C. 102(b) as being anticipated by Hassett.

Hassett teaches for load monitoring and management.

With respect to **claim 21**, Hassett teaches *an asset monitor, for each of a plurality of mobile assets, operable to collect asset data based on events and input at the mobile asset, summarize the collected asset data, make decisions concerning operation of the mobile asset in*

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*view of the collected asset data and wirelessly communicate the summarized asset data (see for example column 2, lines 43-46 and column 6, lines 26-36).*

Examiner notes that as per claims 22 and 23 the “decisions concerning operation of the mobile asset” includes evaluating whether the management computer needs the have asset data and if so including the data in a wireless communication. As such Examiner notes that Hassett’s initiating correspondence based on a warning clearly represents Applicant’s interpretation of “decisions.”

With further respect to **claim 21**, Hassett teaches *a management computer for processing and storing the summarized asset data for the plurality of mobile assets in a relational database format* (see for example Figure 1 #2, and column 3, lines 63-67). Examiner notes that Appliatn management data processor represents this limitation. Further Examiner points to column 3, lines 5-9 which teaches a database/network system.

With further respect to **claim 21**, Hassett teaches *a wireless communications infrastructure interconnecting the management computer to each of the mobile assets, the infrastructure including a plurality of local monitor nodes each storing summarized asset data in a relational database format for at least a portion of the plurality of mobile assets that is at least a partial replica of the summarized asset data stored by the management computer* (see for example column 3, line 63-column 4, line 21 and Figure 1). Examiner notes that the local site modules represent Applicant’s local monitor nodes. Further Hassett’s teaching of the modules operating as a data storage and rely unit represents Applicant’s storing summarized asset data in a relational database format.

With respect to **claims 22 and 23**, Hassett teaches *wherein the asset monitor includes a processor operable to summarize the asset data and make operational decisions in view of the asset data based on the evaluation of certain rules; wherein the certain rules implemented by the processor evaluate whether the wireless infrastructure and/or the management computer needs to have the asset data, and if so includes the asset data in the summarized asset data for wireless communication* (see for example column 6, lines 26-36). Examiner notes that these limitations were discussed with respect to claim 21 above.

With respect to **claim 28**, Hassett teaches *wherein the asset monitor includes a processor operable to determine each of what, where, when and how after to make a wireless communication with the wireless communications infrastructure* (see for example column 6, lines 26-36). Examiner notes that while the primary embodiment of Hassett teaches a system which pulls the information from the asset monitors, the embodiment described in the cited portion teaches a push system where the asset monitor initiates the communication. It is the Examiner's position that a "push" system represents this claimed limitation.

With respect to **claim 29**, Hassett teaches *a third party network interface for allowing third party access to the stored asset data maintained by the management computer* (see for example column 2, lines 3-9 and column 7, lines 7-16).

With respect to **claim 30**, Hassett teaches *wherein the event data comprises sensor detected data concerning operation of the mobile asset and the input asset data comprises*

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*operator supplied data concerning mobile asset operation* (see for example column 2, lines 20-23 and lines 43-46).

With respect to **claims 31 and 33-37**, Examiner notes that these claims are substantially similar to claims 21-23, 28-30. As such claims 31 and 33-37 are rejected under the same analysis as provided for claims 21-23 and 28-30 above.

With respect to **claims 24-25 and 32**, it is the Examiner's position that Hassett anticipates these claims.

Specifically, these claims deal with the local asset monitor with a processor. As previously pointed out the local site modules of Hassett represent Applicant's local asset monitors. In addition, the modules of Hassett have a processor and database (see for example column 4, lines 1-3).

At this point, Examiner notes that claims 24-25 and 32 are system claims. As noted in MPEP section 2114 an apparatus claim covers what a device is, not what a device does. Further the claims recited "a processor operable to" or "processing capability operable to" perform the various tasks. As such Examiner takes the position that the processor and database of Hassett is operable to perform the claimed limitation. Further, the structure taught by Hassett anticipates Applicant's claimed structure.

In the alternative to this interpretation, Examiner also rejects claims 24-25 and 32 under 35 USC 103(a) below.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hassett in view of How the Internet Works pages 278 and 279 (hereinafter proxy servers).

Hassett as discussed above does not teach that the local monitor nodes are operable programmed to makes decisions concerning operation based on rules and thus act as a middle man between the asset monitor and the management computer.

Examiner submits proxy servers as evidence of what was old and well known at the time of the present invention. Namely, a middle man used to control traffic between two computers. The proxy server is operable to make decisions based on rules and parse data as it is sent between the two computers. Proxy servers are also known to store subsets of data (cache) in order to enhance performance.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the local site modules of Hassett to act as proxy servers between the management computer and the vehicle monitors in order to enhance performance.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hassett. Examiner notes that Hassett, as discussed in detail above teaches a local site module with a

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processor and a database (see column 4, lines 1-3). Further, as described above, Hassett teaches third party access to the data stored on the management computer.

However, Hassett does not specifically teach third party access to the database stored on the local site modules.

It would have been obvious to one of ordinary skill in the art to modify the two teachings of Hassett by enabling third party access to the databases stored within the local site modules. One of ordinary skill in the art would have reasonably been motivated to modify these teachings in order to provide instant access to the data rather than having to wait for it to be forwarded to the management computer.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 21-37 have been considered but are moot in view of the new ground(s) of rejection.

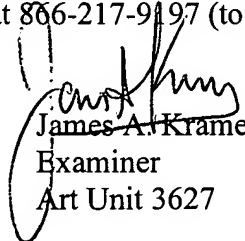
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/16/06  
James A. Kramer  
Examiner  
Art Unit 3627

jak